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ABSTRACT

For more than half a decade, the author edited a quarterly ethics column focusing on family work, first in the "International Association of Marriage and Family Counselors Newsletter" and later in "The Family Journal: Counseling and Therapy for Couples and Families." These columns responded to ethical dilemmas in family work submitted by counselors across the spectrum of spectrums and modalities. This chapter presents a selection of the most interesting columns. The compendium starts off with the last column, describing important ethical lessons learned over the years. Following that are columns speaking to a variety of ethical dilemmas. (GCP)

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Ethical Issues in Family Work

by

David M. Kaplan

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Chapter Eleven

Ethical Issues in Family Work

David M. Kaplan

For more than half a decade, Mary Culkin and I edited a quarterly ethics column focusing on family work, first in the *International Association of Marriage and Family Counselors Newsletter* and later in *The Family Journal: Counseling and Therapy for Couples and Families.* These columns responded to ethical dilemmas in family work submitted by counselors across the spectrum of specialties and modalities. What follows is a selection of the most interesting columns. The compendium starts off with our last column, describing important ethical lessons we have learned over the years. Following that are columns speaking to a variety of ethical dilemmas. Enjoy!

Lessons Learned

We have been editing a quarterly ethics column written by the International Association of Marriage and Family Counselors (IAMFC) Ethics Committee for more than five years, first in the *IAMFC Newsletter,* and then in this journal. Although the ethical dilemmas that have been presented have admittedly not been a

scientific sample, we think that we have learned some valuable lessons by trying to solve real world problems. This is our last column, and so we thought we might pass on some of what we have learned.

Obtain Informed Consent From Family Members

This is so important we are going to say it again. Obtain informed consent. It cannot be stated too emphatically that obtaining informed consent from every family member in counseling prevents many misunderstandings and problems down the road. When you have informed consent, you have the client's agreement to the specific rules of your practice. Clients have both a right and a need to know about fees and payment schedules, your theoretical framework and treatment approach, rules about appointments, how and when they are allowed to contact you, rules about confidentiality, and your educational background and training. This information should be given to clients in a packet that includes an acknowledgement sheet that can be signed and returned to you. Obtaining informed consent in writing is important because, contrary to what we often believe, clients do not hang on therapists' every word and can misinterpret or disregard verbal statements we make about our practices. An excellent source for creating an informed consent brochure is *The Paper Office* by Edward L. Zuckerman and Irwin P. R. Guyett, Pittsburgh, PA: Clinician's Toolbox, 1992.

One important aspect of informed consent that came up over the years in the ethics column was determining exactly who the client is. In family counseling, we often work with individuals, families, and institutions (i.e., schools or courts). Every person that you provide counseling to has a right to know who the primary client is. In this way, each individual knows which will come first when there is a conflict between the needs of the individual, family, and institution. One column presented a situation in which a high school counselor smelled alcohol on the breath of a student in counseling. The school policy for students found to be under the influence of alcohol was, among other things, immediate suspension. The counselor wanted to

know whether her first priority was to follow school policy and report the intoxication, or to focus on the student and continue the counseling without reporting it. This dilemma can be avoided by letting students know when they first come for counseling the conditions under which the school becomes the primary client and when counselors must follow school policies. If the counselor thinks that the school intoxication policy must be upheld, getting informed consent will assure that clients are aware of what will happen if they walk into the school counselor's office intoxicated.

Know When to Keep Confidentiality and When to Break It

Now we know why confidentiality is often referred to as the cornerstone ethic. Over half of the dilemmas presented in our column had confidentiality as a main theme. It is important for professional counselors to become thoroughly familiar with Section II of the IAMFC ethical code, which states that information shared with a counselor by a client will not be disclosed to others unless the following conditions are present: There is clear and imminent danger to the client or someone else, the client completes a signed waiver form, the law mandates disclosure, the counselor is a defendant in a court case arising from professional activity, or the counselor needs to discuss a case for consultation or educational purposes (in which case facts about the client are disguised to prevent disclosing the exact identity of the client).

Although these statements on confidentiality seem cut-and-dried, things can become less clear when counselors deal with real families and real counseling situations. One column focused on the issue of ensuring confidentiality when providing both family counseling and individual counseling for a family. The ethics committee decided that there were a number of ways to approach this. One was to decide that it was in the best interest of the family not to provide individual counseling. A second approach was to let families know at the beginning of the first session, preferably in writing, what your policy on confidentiality is (we are now back to informed consent). You

may decide to tell families that because important information that relates to the family counseling may come out in individual counseling, you cannot promise to keep everything confidential if an individual family member speaks to you. Or you may decide to agree to maintain confidentiality. In either case, letting family members know about this in writing before you begin counseling makes the rules clear. It is also clear that in the absence of any such statement to the family, you are bound to keep an individual family member's statements confidential, even if that puts you in a bind.

A very interesting and complicated family dilemma that involved important confidentiality issues was published in the third year of our column. It focused on a woman who had administered a lethal dose of sleeping pills to her grandmother and withheld cardiac medication from her mother when both had been in advanced stages of Alzheimer's disease. The client had viewed this as a compassionate approach to their suffering, but was now concerned that she was soon to be in the position of taking care of a third relative with Alzheimer's disease, an elderly aunt. This situation presented some very difficult judgment calls for the counselor. First, the question arose as to whether the counselor had an obligation to break confidentiality and report the manner in which the mother and grandmother had died. The answer is no. Clear and imminent danger refers to current clear danger. Situations revolving around alleged crimes or wrongdoings that have occurred in the past are kept confidential because they do not pose any clear danger in the here and now. Nevertheless, the counselor in this situation does have a responsibility to assess whether there is clear danger to the aunt. If the counselor makes a professional judgment that the client is likely to cause her aunt's death, then the counselor would need to break confidentiality to protect a life.

Finally, another confidentiality issue was presented by the director of a graduate program in marriage and family counseling. The director wanted to know how to ethically approach applicants who had previously been in therapy with one of the faculty members. The ethics committee clearly stated that the confidentiality of the applicant should be protected. This meant not disclosing the knowledge that the client received counseling from a professor. An

applicant to a graduate program cannot be denied acceptance simply because of a past counseling relationship with one of the faculty. Instead, programs can set up procedures to allow faculty members to abstain from participating in the admissions process without having to give an explanation as to why they are abstaining.

Avoid Dual Relationships Like the Plague

Engaging in dual relationships is probably the most common ethical violation that counselors commit. We have often heard the statement, "I'll be careful," when counselors allow themselves to become a friend, lover, or business partner, or to enter into other types of relationships with a current or former client. Our response to this has been that ethical codes are set up not to prevent what *will* happen, but to prevent what *might* happen. It is selfish for counselors to engage in dual relationships with current or former clients, and doing so may cause great psychological damage to clients. That is why Section I.J of the IAMFC ethical code states that members must not engage in dual relationships or engage in sex with any current or former client or family member to whom they have provided professional services.

An ethical dilemma was sent from Maui by a pair of family counselors. They were concerned that some colleagues went on camping trips with their clients, spent time in hot tubs together with these same clients, and conducted support groups in which they participated both as therapists and as group members at the same time. The responses from the ethics committee members noted a number of pitfalls in this situation. Judy Ritterman pointed out that a therapist who becomes too emotionally attached to a family is rendered useless in the counseling process. The therapist becomes part of a system helping to perpetuate things as they are rather than acting as a change agent. Martin Ritchie pointed out that it would be very difficult in this situation to maintain confidentiality. He wrote, "Even if the therapists felt they could separate counseling and socializing interactions, it is unfair to expect their clients and friends to make that distinction."

Be Knowledgeable About the Legal Aspects of Counseling

It is our responsibility to uphold all legal requirements of the counseling profession. Needless to say, it is difficult to uphold laws if you don't know what they are. Whereas there are many important legal issues to be aware of, such as duty to warn, laws against having sexual contact with clients, and privileged communication, one of the most common legal issues that comes up in marriage and family counseling revolves around state laws focusing on the reporting of child abuse, maltreatment, and neglect of minors. When was the last time you actually looked at your state law that stipulates what a counselor must do when confronted with these issues? If you are unaware of or don't understand the law, how are you going to know what to report?

A counselor wrote to us that she was in a training course at a marriage and family counseling institute. She observed a session in which an eight-year-old child stated that he was whipped with a belt buckle on a regular basis by his stepfather. The mother acknowledged that her son had welts and bruises all over his body and that she could not get the stepfather to stop the beatings. The therapist in charge of the training refused to report the situation, and the frustrated counselor who wrote to us wanted to know what to do. We responded that the duty to report child abuse does not stop if a supervisor or trainer refuses to acknowledge the situation or tells a counselor not to report the incident. If trainers or supervisors will not cooperate, the counselor still has the responsibility to call the state hotline and give as much information as possible.

Take Your Responsibility to Report Ethical Violations of Other Counselors Seriously

Section I.M of the IAMFC ethical code specifically states that members have the responsibility to confront unethical behavior conducted by other counselors. The section says that the first step should be to discuss the violation directly with the counselor. If the

problem continues, the member should use institutional procedures to address the issue. If that does not work, they should contact IAMFC and any appropriate licensure or certification board.

Promote the Dignity and Well-Being of Your Clients

Although a major focus of counseling ethics is preventing harm from occurring to clients, ethical codes are also useful for enhancing the integrity of our clients. We encourage counselors to read the preambles of ethical codes. The IAMFC code preamble states that members should commit themselves to protect and advocate for the healthy growth and development of the families that they work with, and that members recognize that the relationship between counselor and client is characterized as egalitarian.

An example of how these statements can be used came up in a column in which a counselor in private practice asked about his responsibility in dealing with individuals who make contact but do not schedule an appointment. The ethics committee pointed out that regardless of whether an appointment is made, the counselor is representing our profession and, in keeping with the IAMFC preamble, has a responsibility to set up an appropriate referral system and assist the individual in finding the help that he or she needs.

The IAMFC Ethics Committee responds to a counselor with a client who reveals that she knowingly caused the death of two elderly family members with Alzheimer's disease. In addition, the client anticipates taking care of a third elderly family member with Alzheimer's in the near future. This question comes from a real counselor and represents an actual client. However, due to the sensitivity of the situation, the counselor has requested a pseudonym and a fictitious city.

> *I have been counseling an adult woman with a presenting problem of difficulty in coping with the death of her mother. Her mother and grandmother (who is also deceased)*

suffered from progressive Alzheimer's disease. My client revealed to me that she administered a lethal dose of sleeping pills to her grandmother during the final stages of the Alzheimer's, and that she had also caused the death of her mother by withholding cardiac medication. It was then revealed that it is likely that she will have to take care of a third relative with Alzheimer's disease, an elderly aunt. It is important to understand that my client is not a bad person and did what she did while under tremendous stress and pressure and with feelings of compassion for the deteriorating condition of her mother and grandmother. My question is in two parts. First, what are my ethical obligations upon hearing the manner in which my client's mother and grandmother died? Second, am I responsible to do anything about the upcoming situation with the aunt?

Betsy Culip
Sarington, Missouri

Responses to Ms. Culip's questions come from six IAMFC Ethics Committee members: Ed Beck, director of the Susquehanna Institute in Pennsylvania; Frank Browning, University of North Carolina at Greensboro; Michelle Dennison, a private practitioner in Houston, Texas; Sherry Martinek, Youngstown State University; Patrick McGrath, National-Louis University; and Martin Ritchie, University of Toledo.

It was the committee's opinion that a primary issue in this case centers on confidentiality. Regarding the client's admission of causing two deaths, Martin Ritchie writes:

> Ms. Culip is not under an ethical obligation to report the circumstances surrounding their deaths. Ethical standards do not require counselors to report crimes. In the absence of specific legislation such as statutes mandating the reporting of child abuse, she is under no legal obligation to report knowledge of suspected crimes conveyed to her during counseling. If Betsy were to report these activities

without her client's permission, it would constitute a breach in confidentiality.

In other words the disclosure of a past crime should be kept confidential since it presents neither clear not imminent present danger.

As to the possibility that the client will become the caretaker for her elderly aunt, it was of concern to the committee that the aunt could be at risk. It should be noted that all the major associations provide for the breaking of confidentiality where there is life-threatening danger involved. Martin Ritchie points out that it is important for Ms. Culip to be clear as to whether the aunt is in clear and imminent danger before breaking confidentiality, as stated in the American Counseling Association (ACA) Ethical Standard B.4 and the International Association of Marriage and Family Counselors (IAMFC) Ethical code II.A. ACA Ethical Standard B.4 states in part, "When the client's condition indicates that there is clear and imminent danger to the client or others, the member must take reasonable personal action or inform reasonable authorities." IAMFC Ethical Code 2.A(2) states that confidentiality should be broken when the client has placed himself or herself or someone else in clear and imminent danger. In addition, the American Psychological Association's (APA) Ethical Principle 5 states, in part, "[Psychologists] reveal [confidential] information to others only with the consent of the person or person's legal representative, except in those unusual circumstances in which not to do so would result in clear danger to the person or others."

Martin Ritchie argues that

> there is a clear danger to the aunt, but since the client has not begun caring for her, it is doubtful that the danger is imminent. If the client begins caring for the aunt, and if in Betsy's opinion, the danger is both clear and imminent, how to legally exercise the duty to warn becomes difficult. If the aunt does not have the ability to protect herself, it is doubtful that warning her would be considered sufficient. A court in Vermont ruled, in the case of *Peck v Counseling Services,* 1985, "We hold that a mental health professional

should know that his or her patient poses a serious risk of danger to an identifiable victim and has the duty to exercise reasonable care to protect him or her from that danger."

Sherry Martinek also refers to a well-published case that set legal precedent as to counselors' responsibility in reporting potential danger to known persons. She writes:

> Corey, Corey, and Callanan (1984) cited the conclusion of the Tarasoff case: "The public policy favoring protection of the confidential character of patient-psychotherapist communications must yield to the extent to which disclosure is essential to avert danger to others. The protective privilege ends where the public peril begins." (p. 176)

Therefore, legally the "would-be-victim" may need to be notified, or in this case, the victim's guardian.

Frank Browning further notes that

> Section I.A of the IAMFC Code of Ethics states, "Members demonstrate a caring, empathic, respectful, and active concern for family well-being." Failure of the counselor to warn other family members of the potential harm that her client might cause may be a violation of this section. The code implies that in this case there is a systematic, ethical, and moral obligation to the family."

All of these opinions revolve around a professional judgment as to whether there is clear and imminent danger to the aunt. If Ms. Culip makes that determination then Sherry Martinek suggests that she refer to Roth and Meisel's (1977) guidelines for retaining the therapeutic relationship when breaking confidentiality because of a "duty to warn":

- The therapist might consider asking the clients themselves to warn the person whom they have threatened. If this approach is likely to escalate a dangerous confrontation, the therapist should warn the client of that possibility.
- The therapist should attempt to get the client's consent for the therapist to warn the intended victim.
- The therapist might consider having a joint session with the

client's consent for the therapist to warn the intended victim.

- The therapist could have the client turn in any weapons he or she possesses.
- The therapist might consider medication as an adjunct to the therapy process.
- The therapist might consider voluntary hospitalization.

Frank Browning adds, "The counselor should do these things in an empathic and supportive manner, possibly with other family members in attendance. The client should be encouraged to continue in counseling. It should be her decision if she wants to continue with this counselor or another counselor. A judgmental atmosphere concerning the client should be avoided. The attitude and counseling atmosphere should be one of support and concern." It should also be kept in mind that thorough documentation is essential whenever the "duty to warn" is exercised. Specific notes on the date, person, and content of the contact need to be kept. This documentation is vital to support your approach in case of a lawsuit. In summary, Patrick McGrath writes: "Support, understanding, compassion, and growth and development are our second concern. The correctness and rightness of past behavior are our third concern and must be determined in light of the legal requirements."

References

Corey, G., Corey, M., & Callanan, P. (1984). *Issues and ethics in the helping profession* (2nd ed.). Monterey, CA: Brooks/Cole.

Roth, L. H., & Meisel, A. (1977). Dangerousness, confidentiality and the duty to warn. *American Journal of Psychiatry, 134,* 508–511.

A 16-year-old daughter seeks your consultation independent of the family therapy that she is attending. The girl informs you that she has received a positive pregnancy test and is in need of confidential individual counseling regarding whether to abort the pregnancy. So do you provide her with the session and/or a referral to an appropriate facility? Do you encourage her to tell her family of the pregnancy? What other questions do you need to consider?

Deborah Miora
Adjunct Clinical Professor
California School of Professional Psychology, Los Angeles

This issue's provocative dilemma from Deborah Miora poses a hypothetical situation that marriage and family counselors could easily run across. It is not unusual during marriage and family counseling for a family member to request individual sessions to work on his or her own issues. As a result, marriage and family counselors need to plan ahead. Ed Beck, director of the Susquehanna Institute, points out that "good clinical practice dictates that you establish the ground rules for disclosure of information provided by one family member at the outset of counseling." Michelle S. Dennison, a member of the International Association of Marriage and Family Counselors (IAMFC) Ethics Committee in private practice in Houston, Texas, adds, "I address this issue during the initial family session. I explain to the family that when they are in family sessions, the family as a unit owns the right to confidentiality. I then go on to inform them that should any of the family members decide they would like to pursue individual therapy, those sessions would focus on their individual issues, and they would, therefore, own the right to confidentiality in those sessions. I explain to all family members in the initial session that the exceptions to confidentiality include suicidal or homicidal ideation and child abuse issues."

Dennison's comments are supported by IAMFC Ethical Code Section II.E, which states, "Unless alternate arrangements have been agreed upon by all participants, statements made by a family member to the counselor during an individual counseling or consultation contact are to be treated as confidential and not disclosed to other family members without the individual's permission. If a client's refusal to share information from individual contacts interferes with the agreed upon goals of counseling, the counselor may have to terminate treatment and refer the client to another counselor" (IAMFC, 1993, p. 74).

Judith Ritterman, a committee member and a private practitioner in Holbrook, New York, notes that a counselor could handle this request within the context of family therapy. She writes that one possibility is to "see the girl alone and try to encourage her to tell her parents about the pregnancy. The counselor could offer to help the girl set up a therapy session with her parents to talk about the pregnancy. Another possibility would be to refuse to see the girl alone and instead refer her to an appropriate independent counselor."

R. P. Ascano, an ethics committee member and psychologist in private practice in Minnesota, brings up the potential legal issues of this problem. Based on his interpretation of IAMFC Ethical Code Section II.A.3, which states that information obtained from a client can be disclosed to a third party if the law mandates disclosure, Ascano stresses the importance for all practitioners to be familiar with their state laws concerning counseling minors and mandatory reporting status. He states, "Consult with an attorney to determine if a 16-year-old has statutory rights within their state to privacy and privileged communication even to her own legal guardian."

Joe Hannon, a committee member from Kirksville, Missouri, adds that it is also the counselor's responsibility to "determine whether the girl became pregnant due to rape, sexual abuse, or incest, which may legally mandate a report to appropriate parties."

Ed Beck further notes that "if the law requires you to tell the parents, you may ask her which parent, if not both, she would choose to reveal this information to." He also suggests, "The counselor should ascertain the reason that the girl is disclosing her problem. If it is for

informational purposes, no action may be indicated on your part unless there are statutes otherwise."

Reference

International Association of Marriage and Family Counselors. (1993). Ethical code for the International Association of Marriage and Family Counselors. *The Family Journal: Counseling and Therapy for Couples and Families, 1*, 73–77.

This issue's question comes from Dan Longenecker, a marriage and family counselor at the Oak Tree Enrichment Center in Greensboro, North Carolina:

> *How ethical is it to counsel individual family members when you are also providing counseling for the entire family?"*

Responses to this issue come from J. Scott Hinkle, David Steele, and Austin Chandler, counselors in the Greensboro, North Carolina, area. All three respondents agree that there is not one clear-cut answer to this question, but rather the decision to counsel individual family members while providing counseling for the entire family is situational at best.

More specifically, J. Scott Hinkle, IAMFC Board member suggests that if the nature of the individual session is to address personal issues not related to the work of the family, then individual counseling can be very beneficial. He states, "I can envision some circumstances in which this may be appropriate and others in which it would be inappropriate. For instance, an adolescent could be provided with information about how to deal with parents that may be more effectively delivered without the parent attending the session. On the other hand, if this is a family in which coalitions have been extremely threatening, the family may be best served by seeing them

all at once and dealing with parents right there in the session."

David Steele, a psychologist with Carolina Psychological Associates, feels that when working with families it is critical to consider the therapeutic contract agreed upon by the therapist and family. He states, "If your initial contract was for family therapy, I would suggest seeking the permission of every family member who has been involved in the family sessions before beginning individual therapy. The limits to the individual therapy and confidentiality should be delineated with each family member to be involved in individual sessions. If the initial contract was for individual therapy and family therapy was begun at the instigation of the therapist, careful explanation of the relative roles of the individual and family work would need to be given to the family. Again your contract has to be negotiated and renegotiated before changing expectations."

David's comments are supported by AACD standard B.2, B.8, and AAMFT Standard 2.1. Standard B.2 states in part, "The counseling relationship and information resulting therefrom must be kept confidential, consistent with the obligations of the member as a professional person. In a group counseling setting, the counselor must set a norm of confidentiality regarding all group participants' disclosures." Standard B.8's first sentence states, "The member must inform the client of the purposes, goals, techniques, rules of procedure, and limitations that may affect the relationship at or before the time that the counseling relationship is entered." AAMFT Standard 2.1 in part states, "In circumstances where more than one person in a family is receiving therapy, each such family member who is legally competent to execute a waiver must agree to the waiver required by sub-paragraph (4). In absence of such a waiver from each family member legally competent to execute a waiver, a marriage and family therapist cannot disclose information received from any family member."

Dr. Steele further points out that an important clinical issue is whether or not individual therapy will disrupt the process necessary for effective family therapy. He writes, "Will the clinician be seen as allied with the person in individual therapy? Will objectivity be lost? Will the therapist be perceived as more distant by other family

members? The ethical dimension of this question is the obligation of the therapist to provide effective treatment. At times it will be necessary for a second therapist to do the individual work, so that your role as the family's therapist is not threatened."

Finally, Austin Chandler, a psychologist and director of the Greensboro College Counseling Center states, "My thinking is bound by the question, 'Do the perceived benefits to the client outweigh the perceived risks to the client?' If the answer to this question is yes in my mind, then I feel I am obligated to proceed and offer both services. Conversely, if the answer is no, I do not proceed."

As a high school counselor I have worked hard to provide students with counseling services that meet their individual needs. I have established a reputation as being open-minded, accessible, and respectful of students. As a result, a 17-year-old woman came to me because she had heard I was nice. After discussing the parameters of our counseling relationship to include the terms of confidentiality, the client revealed that she had a drinking problem. She began to cry, at which time I smelled alcohol on her breath. The school policy for students found to be under the influence of alcohol is to notify their parents and place them on immediate suspension.

The question is, do I follow school policy and break confidentiality? If I do, I risk losing a majority of my referrals from students because they may feel a lack of trust in me. If I go against school policy and work with this client, have I set the stage for how I will have to work with future alcohol/chemically dependent students?

The dilemma is a good example of how systems theory comes into play regardless of the number of people in your office. Even when conducting individual counseling, as in the above situation, a

counselor must take into account ethical obligations to a variety of different systems such as the family, the school, the legal system, and even the counseling profession.

Responses to this issue from IAMFC Ethics Committee members pointed to various aspects of these systems. In terms of the individual, R. P. Ascano, a forensic psychologist in Breckenridge, Minnesota, points out that an obvious ethics issue is confidentiality. He writes, "the American Counseling Association's ethical standards state in Section B.2 that "the counseling relationship and information resulting therefrom must be kept confidential, consistent with the obligations of the member as a professional person." The American Psychological Association's ethical principles mandate in Principle 5 that "psychologists have a primary obligation to respect the confidentiality of information obtained from persons in the course of their work as a psychologist." The American Health Association's ethics state in Principle 4 that "the members, officers, and employees of ACHA must recognize the importance of confidentiality in personnel and medical information."

Judy Ritterman, from Community Family Growth Services in Holbrook, New York, notes that the revised 1992 American School Counselor Association ethical standards in Section A.9 makes its position clear: Confidentiality must not be abridged except where the law or ethical standards (clear and present danger) mandate such an abridgement. The Ethical Code for the International Association of Marriage and Family Counselors is very specific, stating in Section II.A that information obtained from a client can only be disclosed to a third party under the following conditions: the client signs a waiver and has a full understanding of the nature of the waiver; there is clear and imminent danger to the client or someone else; the law mandates disclosure; or the counselor is a defendant in legal action arising from professional activity.

Dealing with legal aspects in an ethical way presents a challenge because laws are often ambiguous and conflicting. Robert Crawford, from Memphis State University, presents one view of how the legal aspects of confidentiality need to be examined in this situation. He

states, "It is a important to note that the description of the client as a 17-year-old 'woman' is a misnomer; the client in this case is a minor. Legally, a 17-year-old person is not an adult except in cases where there has been emancipation due to marriage, etc. Legal and ethical protection of confidentiality between counselors and minor clients is less than that provided for counseling relationships with adult clients. These limits are further restricted in secondary schools where *in loco parentis* rights and responsibilities often create limits on confidentiality between counselors and students. At last report, a bare minority of states in the nation provide legal protection of confidentiality for students and school counselors, and there is no indication that this case took place in a state with such legislation."

R. P. Ascano presents an alternative view. He feels that a 17-year-old can be mature enough to give informed consent, and thus the school policy may violate state statutes pertaining to privileged communication or confidentiality.

Robert Crawford notes that the counselor must also examine his or her responsibility to the family, school, and professional systems. "There is no doubt that the student in this case is the client, but the counselor has responsibilities to other persons as well as a variety of systems. ASCA Ethical Standards Section B.1 requires the school counselor to respect the inherent rights and responsibilities of parents for their children, and ASVCA Standard D.2 requires the counselor to inform school officials of conditions that may be damaging to the school's mission. In addition, ASCA Standard F.1 requires counselors to conduct themselves in such a manner as to bring credit to self and to the profession."

So how do you act in an ethical manner that takes into account your responsibilities to a number of systems including the individual, the family, the school, the law, and the counseling profession? At the beginning of your counseling relationship, determine which system is your primary client (keeping in mind that the American School Counseling Association's Ethical Standards Section A.1 clearly states that a school counselor's primary obligation and loyalty is to the student). If the student who came to you for counseling is not your primary client for some reason, he or she has a right to know that

from the beginning.

Robert Crawford points out that counselors should also comply with ASCA Ethical Standard A.3 and ACA Ethical Standard B.8, which state, in part, that clients must be informed about any legal or authoritative restraints on the counseling relationship at or before the time counseling is initiated. In this case, the school counselor's discussion of the terms of confidentiality should have included information about the school's policy about notifying parents of children who are found to be under the influence of alcohol.

Without having informed the student about the alcohol policy before sensitive information was disclosed, confidentiality should be maintained since the client (or the client's legal representative) was not aware of the limitation. The counselor can use various ethical guidelines for support in educating the school administration that information about a client is released only with the consent of the client or client's legal representative (APA and ACA); and that this release should be in writing (AMHCA).

R. P. Ascano notes that if the counselor feels the school policy is not in the best interest of the students and violates ethical guidelines or state confidentiality laws, then he or she has the responsibility to approach the administration about modifying or eliminating it. In situations where there is a conflict between the interest of the client or student and the academic institutions, APA states that psychologists must state the commitment to their association standard and "wherever possible work toward a resolution of the conflict" (Principle 3.d). However, ACA (in Section A.2) indicates that when a person accepts employment in an institution it is implied that he or she accepts the institution's policies and principles. If a conflict arises for which an agreement cannot be reached, the employee should consider terminating affiliation with that institution.

Finally, the counselor must deal with the potential that there is clear danger to the client in this case. Judy Ritterman presents an interesting approach that takes the family system into account. She writes, "The counselor may be making an erroneous assumption that the student came to her thinking that the counselor would keep her alcohol problem a secret. Teenagers who are unable to stop themselves

from continuing potentially dangerous behaviors may very well seek out an appropriate adult who can 'put on the brakes for them.' A teenager with a drinking problem who didn't want her problem known by the important adults in her life would not have gone to the counselor, would not have openly admitted a drinking problem, and certainly would have found some way to cover the smell of alcohol on her breath as she most likely does to avoid detection at home."

"If my assumption is correct, that the student wanted her problem revealed, then the counselor now has to work with the student on the most appropriate way to do it. To keep the student's confidence in the counselor (and maintain confidentiality), the counselor can work with the student on ways the student herself (or with the aid of the counselor) can tell the parents about the problem. In this way, the counselor can offer this family options for treatment and hope for recovery. However, if the client continues to drink heavily and refuses to let her parents be contacted, the counselor may well have to determine that there is clear danger and inform the parents and the school."

In summary, R. P. Ascano states, "While these statements may be ideally desirable, it is realistically difficult at best. It is not always possible to resolve conflicts of this nature and uphold the obligation to all parties. In the final analysis, counselors need to make a moral decision as to their loyalty to students versus the school versus the ethical guidelines of professional organizations, taking into consideration their legal responsibility as defined by the state statutes pertaining to privacy and confidentiality."

A couple has come to you for couples therapy. They state that they love each other and intend to stay married. They have two children, a 14-year-old boy and a 17-year-old girl. All four members of this family are extremely bright and quite committed to obtaining therapy. Cost and time are not a consideration.

After a few sessions it becomes obvious that the couple has not been attempting several of your suggestions, although they do proceed with others that you have made. You do notice that they are attempting other activities, the nature of which are clearly the kind of suggestions made by mental health professionals. Further exploration of this leads to the discovery that each family member is in individual counseling as well as participating in group therapy or a self-help group. Essentially, there are 10 different mental health professionals or groups involved with this family, and the clients are spending approximately 10 to 12 hours per week in therapeutic sessions.

With the couple's and children's permission, you contact each individual therapist, the group facilitators, and even talk with the self-help group sponsors. There is little interest from other treating personnel in coordinating an overall approach. You seem to be the only one concerned that so many approaches are theoretically quite different in technique, in choice of issues being addressed, and in activities suggested for the client. In addition, the couple sees no problem and wants to continue to work with all of their therapists and groups because "it is their right."

You are aware that the Ethical Code for the International Association of Marriage and Family Counselors (IAMFC) states in Section I.K, "Members have an obligation to withdraw from a counseling relationship if the continuation of services is not in the best interest of the client. . . ." As such, what are your ethical responsibilities to this family?

Although it may be unusual to encounter a family spending 10 to 12 hours per week in therapy with 10 different therapists, it is not unusual for family members to be working with more than one mental health professional. Martin Ritchie, from the University of Toledo writes, "The American Psychological Association's (APA) recently revised

ethical standards state the following in Section 4.04:

> In deciding whether to offer or provide services to those already receiving mental health services elsewhere, psychologists carefully consider the treatment issues and the potential patient's or client's welfare. The psychologist discusses these issues with the patient or client, or another legally authorized person on behalf of the client, in order to minimize the risk of confusion and conflict, consults with the other service providers when appropriate, and proceeds with caution and sensitivity to the therapeutic issues when a client is being seen by another counselor.

"Section B.3 of the Ethical Standards of the American Counseling Association (ACA) provides less flexibility. This section states in part, 'If the member discovers that the client is in another counseling relationship after the counseling relationship begins, the member must gain the consent of the other professionals to terminate the relationship, unless the client elects to terminate the other relationship.' Therefore, the counselor's attempts to contact the other therapists and to ensure coordination of treatment are consistent with APA and ACA standards. Keep in mind, however, that the IAMFC Ethical Code clearly states in Section I.C, 'Members respect the autonomy of the families that they work with. They do not make decisions that rightfully belong to family members.' Therefore, the counselor needs to make a professional judgment as to whether this decision is one that should be made by the family, by the counselor, or should be a shared decision."

Sherry Martinek, from Youngstown State University in Ohio, suggests that counselors in this situation should discuss their professional concerns about the therapeutic problems related to lack of coordinated care with their couple. She writes, "One counselor could provide individual, couple, and/or family counseling, meeting with different subsystems when appropriate. I would not object to members attending their respective self-help recovery groups as long as a 'team approach' was enacted to ensure follow-through on mutual goals. If this conflict could not be resolved, in accordance with the

previously mentioned IAMFC Ethical Standard I.K, I would engage in a discussion to help this couple decide on the best alternative treatment services for them."

Ed Beck, the director of the Susquehanna Institute in Pennsylvania, agrees stating, "Surely patients have a right to get as much support as they want or can afford. However every clinician has the right to accept or not accept cases which are incompatible with scope of training and practice. In following the IAMFC Ethical Code Standard I.K as stated previously, in this case, unless the family gave me coordinating and supervisory authority in writing, I would terminate treatment."

As for the ethical judgment of the other therapists, Martin Ritchie suggests that if the counselor suspects that one or more of the other therapists is violating ethical standards, the counselor is obligated to inform the family and confront the therapist. He writes, "IAMFC Ethical Code Section I.M states, 'Members have the responsibility to confront unethical behavior conducted by other counselors. The first step should be to discuss the violation directly with the counselor. If the problem continues, the member should first use procedures established by the employing institution and then those of the IAMFC. . . . Members may contact the IAMFC executive director, president, executive board members, or chair of the ethics committee at any time for consultation on remedying ethical violations.'"

Resources

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I am the director of a master's program in marriage and family counseling. An integral part of our admissions process is a personal interview. During a recent interview, an applicant revealed that she had been in therapy with one of the faculty a few years ago.

While we rejected the candidate for reasons unrelated to her being a former client, we became uncomfortable with the potential for exploitation and harm to the previous therapist-client relationship and decided that any faculty member could veto an applicant to protect previous counseling relationships and confidentiality. However, some faculty members weren't comfortable with this decision, and recently a potential applicant argued that the decision should be made by the candidate.

What kind of ethical guidelines can help us deal with applicants who have been former clients of faculty?

Faculty admissions committees should make every effort to respect and promote the autonomy and privacy of potential candidates for admissions into their graduate programs. Faculty members who are called on to evaluate candidates and make recommendations for the purposes of admissions have an obligation to make such decisions objectively and impartially. Faculty members should avoid any actions that would diminish or violate a past counseling relationship. The American Mental Health Counselors Association (AMHCA) Principle 1.e states:

> As practitioners, mental health counselors know that they bear a heavy social responsibility because their recommendations and professional actions may alter the lives of others. They, therefore, remain fully cognizant of their impact and are alert to personal, social, organizational,

financial, or political situations or pressures that might lead to misuse of their influence.

In keeping with the preceding statements, the consensus of the International Association of Marriage and Family Counselors (IAMFC) Ethics Committee is that vetoing the acceptance of an applicant into a graduate program simply because the applicant has been a past client is unethical. The preamble of the IAMFC Code of Ethics very quickly directs us to recognize "that the relationship between the provider and consumer of services is characterized as an egalitarian process." The preamble further emphasizes that "co-participation, co-equality, co-authority, and co-responsibility" (i.e., a shared process of decision making) are what characterize an egalitarian relationship.

An alternative is for the program to set up procedures to allow faculty members to abstain from input into the admissions process. To protect the confidentiality of a former client, a faculty member needs to be able to abstain without explanation so that the former counseling relationship is not revealed. Avoiding the disclosure of the previous counseling relationship is in accordance with the guidelines for confidentiality outlined in the American Counseling Association (ACA) Ethical Standard B.2 and the IAMFC Ethical Code II.A. ACA Standard B.2 states in part, "The counseling relationship and information resulting therefrom must be kept confidential, consistent with the obligations of the member as a professional person." IAMFC Ethical Code II.A states in part, "Clients have the right to expect that information shared with the counselor will not be disclosed to others. . . . The fact that a contact was made with a counselor is to be considered just as confidential as the information shared during that contact."

Although protecting the confidentiality of the past counseling relationship is the first priority of the admissions committee, a second major issue is the autonomy and personal-professional growth of the prospective student. Kitchener (1984) enumerated five moral principles that can guide decision-making behavior: (a) autonomy of the client, (b) welfare of the client, (c) nonmalfeasance to the client,

(d) justice or fairness for the client, and (e) loyalty to the client. The faculty admissions committee is obligated to respect the dignity, the worth, and the ability of the applicant to be self-directed. As such, the majority of the IAMFC committee members felt the revelation of a past counseling relationship should not preclude the admission of a client. AMHCA Principle 11.D states, "The mental health counselor relationship must be one in which client adaptability and growth toward self-direction are encouraged and cultivated. The mental health counselor must maintain this role consistently and not become a decision maker or substitute for the client."

It should also be pointed out that rejecting a student based on the fact that they had been in counseling is probably a violation of the Americans With Disabilities Act of 1990, which states that individuals cannot be discriminated against on the basis of a physical or emotional disability. The IAMFC Ethical Code also states in Section I.D that members do not discriminate on the basis of disability.

In addition, once the students are admitted, counselor education programs should encourage and support students' personal and professional growth, which could include seeking therapy in order to develop one's potential. The American College Personnel Association's (ACPA) Ethical Principle "Do no harm," states in part, "Student affairs professionals are especially vigilant to assure that the institutional policies do not (a) hinder students' opportunities to benefit from the learning experiences available in the environment; (b) threaten individuals' self-worth, dignity, or safety; or (c) discriminate unjustly or illegally.

In summary, the IAMFC Ethics Committee supports a professor's abstention rather than veto when a former client has applied to a counseling program. Program policy should allow the abstention in such a way that protects the confidentiality of the former counselor-client relationship. Also, the applicant should not be denied admission based solely on the fact that they were in counseling, because this violates both professional ethics and possible legal statutes.

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I am a school counselor in an urban high school. The mother of a 12-year-old girl attending a local junior high called me to express concern that a 15-year-old boy attending my school was harassing her daughter. (The girl does not want anything to do with him.) After talking to the boy, it became clear that he was obsessing about a relationship with the seventh grader, making such statements as, "She is everything," "In a dark room she is the only light," and "I only derive happiness when with her."

Subsequently, the boy showed up at both the girl's home and school, frightened her, and was charged by police with harassment. His friends then told school officials that statements had been made about wanting to buy a gun to kill both the girl and himself. On the basis of this information, the boy's parents admitted their son to an inpatient psychiatric unit. Unfortunately, this unit has the reputation of not taking patients' threats to themselves or to others seriously and of prematurely releasing them.

As the school counselor in the boy's home school, what ethical obligations do I have to the girl and her parents after the boy is released from the hospital?

As is frequently the case when many people and systems are involved in a case, one of the counselor's primary obligations is to determine who the client is. Principle A.1 of the Ethical Standards for School Counselors promulgated by the American School Counselors Association states that a school counselor's primary obligation and loyalty is to students, and it can be inferred from the preamble that this refers to students in the counselor's school. Therefore, the IAMFC Ethics Committee suggests that the counselor in this situation make the 15-year-old boy her primary concern. In keeping with IAMFC Ethical Code Section I.I, which states in part, "Members have an obligation to determine and inform all persons involved who their primary client is—i.e., is the counselor's primary obligation to the individual, the family, a third party, or an institution?," the identification of the boy as the primary client should be communicated clearly to all parties involved. An important aspect of focusing the counselor's obligation toward the boy is to make it known that all counseling contacts after release from the hospital will be kept confidential. Keep in mind, though, that the boy and his parents have the right to informed consent and to know the limits of confidentiality. An important legal case that has potential impact on informed consent in this case is the well-known court case *Tarasoff v Board of Regents of the University of California.* Decided in 1976, this decision revolved

around a psychologist who had been told by a male client that the client was going to kill his former girlfriend, Tatiana Tarasoff. Although the psychologist did notify the police, she did not warn the potential victim. Subsequently, the client did kill his former girlfriend, and her parents sued the psychologist for not breaking confidentiality and issuing a warning to Tatiana. The court ruled in favor of Tatiana's parents, stating that when it seems a client is dangerous, psychologists (and by implication all mental health professionals) have a duty to warn an intended victim and that this duty overrides confidentiality.

Therefore, in the present case, the school counselor has an obligation to immediately warn the girl and her parents (along with other people as necessary, such as police or school officials, depending on the situation), if at any time the boy discloses anything that causes the counselor to make a professional judgment that there is clear danger of harm to the girl. As stated previously, the necessity of breaking confidentiality and warning responsible parties if clear danger of harm is present needs to be explained to the boy and his parents as part of informed consent. It is also suggested that because of the potential legal aspects of this case coming from the *Tarasoff* case and resulting state laws, the counselor should consult with the school district's attorney about that particular state's liability standards and "duty to warn and protect" statutes.

In terms of the psychiatric unit that discharged the boy, the counselor should not get involved in any consideration as to the correctness of their judgment unless the counselor has specific information about unprofessional behavior (which should then be discussed with the clinical director). It is in the best interest of our clients to recognize the competence of other professional groups, cooperate with them, and to make sure we do not interfere in the relationship between them and the client. The National Board for Certified Counselors Code of Ethics Section B.3 supports this, stating in part, "Certified counselors know and take into account the traditions and practices of other professional groups with whom they work and cooperate fully with such groups." Therefore, instead of putting distance between the school and hospital, the counselor should attempt

to become an active and cooperative participant in the discharge planning process.

I am a family therapist in private practice. I am very busy and find that I am unable to accommodate the needs of all those who call. I find these contacts very time consuming because I must explore the individual's or family's need and then provide appropriate referrals. Do I have any ethical responsibility to people who call or are referred to me whom I cannot take on as clients?

The therapist in this situation is to be commended for diligence in considering the responsibility to individuals who are not clients. Although the person calling is clearly not yet a client, the counselor does have a professional relationship with the individual requesting services in the sense that this may be the first contact that the person has had with a marriage and family counselor. In this capacity, then, the counselor represents the profession and has an obligation to present it in a responsible manner.

Various counseling ethical codes speak to the obligation of counselors to assist individuals, couples, and families who contact them but whom they choose not to see. For example, section B.12 of the American Counseling Association's (ACA; 1988) *Ethical Standards* states, "If the member determines an inability to be of professional assistance to the client, the member must . . . suggest appropriate alternatives. In the event the client declines the suggested referral, the member is not obligated to continue the relationship."

The code of ethical principles of the American Association of Marriage and Family Therapy (AAMFT; 1988) states in Section 1.6, "Marriage and family therapists assist persons in obtaining other therapeutic services if the therapist is unable or unwilling, for appropriate reasons, to provide professional help."

The ethical code of the American Mental Health Counselors

Association (1990) proposes, in Section 6.K, that "if the mental health counselor is unable to be of professional assistance to the client, the member is obligated to suggest appropriate alternatives."

The *National Board for Certified Counselors' Code of Ethics* (1987) states, in Section B.11, "When certified counselors determine an inability to be of professional assistance to the potential or existing client, they must, respectively, not initiate the counseling relationship or immediately terminate the relationship. In either event, the certified counselor must suggest appropriate alternatives. Certified counselors must be knowledgeable about referral resources so that a satisfactory referral can be imitated."

Therefore, it is clear that marriage and family counselors have an ethical responsibility to help contacts who cannot be accommodated to find alternative resources. The referral process need not be time consuming. The busy therapist can prepare a one-page listing of other local resources, which could be mailed to those who inquire. This directory would include the name, address, and phone number of each resource, with a description of specific areas of competence. By providing several agencies, competent therapists, or both for the potential client to choose from, the counselor not only gives a range of resources but also is protected against a malpractice lawsuit if the potential client is dissatisfied with the services provided by the next therapist or agency.

Counselors can also suggest that the person seeking help look for other private counseling services in the phone book Yellow Pages, call the area community mental health center, or contact the local crisis center. For the busy therapist, information can be provided by an office manager or even by an answering machine.

A final solution, which has been used by one of the column editors, is to form an association of counselors with various areas of expertise who practice in the same office suite. Referrals often become a simple matter of arranging for the client to meet with an in-house counselor who has expertise with the presenting problem and has an open appointment.

The issue of a potential client in crisis deserves special attention. If the person inquiring about services is suicidal or in danger of

physical harm to self or others even the busiest of therapists has the responsibility to react immediately to such emergencies to preserve life. This does not necessarily mean taking the individual on as a client, but rather that the counselor should maintain contact with the person until an appropriate resource (e.g., crisis hotline, ambulance, or police) can be notified and placed in charge.

Finally, in any referral situation, it is appropriate (though not mandatory) for the counselor to call back to see whether the person requesting help was able to contact the resources to which they were referred.

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You have just had a productive session with a family that you were seeing for the first time. As you wrap up the session, the parents state that your fee is too steep for them to pay out of their pocket on a regular basis. They add that their insurance company will not reimburse for family therapy and request that you bill the insurance company for individual therapy (which their insurance will reimburse) so that they can continue their counseling.

How do you handle this situation?

Steven Mullinix
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It can certainly be disheartening as a family counselor to find yourself in Dr. Mullinix's dilemma. Judith Ritterman, a member of the International Association of Marriage and Family Counselors (IAMFC) Ethics Committee and a private practitioner in Holbrook, New York, reflects that "it is unfortunate that many insurance companies are slow in acknowledging the need for couples and families to have reimbursable services. They still cling to the medical model of the individual as the appropriate focus of therapeutic intervention even though couple and family therapies are often more cost-effective due to their short-term nature."

This can make it easy to rationalize an inaccurate insurance procedure code, and a number of therapists and counselors probably do this. However, Stuart Bonnington, an ethics committee member from Austin Peay State University, warns, "It may be that billing third parties for individual psychotherapy when marital or family therapy is being performed is 'accepted professional practice,' (i.e., 'everybody does it'), but it is not honest." As such, it is a violation of the IAMFC Ethical Code, which states in Section III.F, "Members do not engage in actions that violate the moral or legal standards of their community."

Joe Hannon, a committee member from Kirksville, Missouri, adds, "Too many of us play little games just for money."

Ritterman points out that agreeing to inaccurate billing is also clearly a violation of Section 7.4 of the American Association of Marriage and Family Therapists (AAMFT) Code of Ethical Principles, which states, "Marriage and family therapists represent facts truthfully to clients, third party payers and supervisees regarding services rendered." (Editor's Note: Interested counselors can obtain this code of ethics by writing to: AAMFT, 1717 K Street, NW, Suite 407, Washington, DC 20006.) Judy Ritterman also poses the following questions: "When we make the decision to enter into collusion with clients in order to deceive an insurance company, what are we telling our clients about honesty and integrity? Will our clients trust us to be honest with them as well as encouraging them to be honest with themselves?"

Ed Beck from the Susquehanna Institute, Harrisburg, Pennsylvania, brings up some legal issues surrounding this problem. He states, "Dr. Mullinix's dilemma is not just an ethical problem, it is also a legal one. Most states with licensing codes and insurance codes have regulations dealing with diagnostic procedures for insurance processes. What the family is proposing and what the therapist is considering may be insurance fraud—a serious crime."

So what are your alternatives to agreeing to misrepresent billing codes to an insurance company for your clients to be able to afford counseling? The ethics committee came up with a few suggestions, as follows:

- Use a sliding scale.
- Refer the family to a not-for-profit counseling agency.
- Arrange for extended payments.
- See one or more family members individually if you have a sound theoretical rationale for doing so.

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